

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

APR 7 2012

## PLAINTIFFS

Charlotte Thomas

## DEFENDANTS

Coach USA Tour Inc. and Twin America, LLC

## ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Craig Carson, Esq.  
95 Wyndshire Lane, Rochester, NY 14626

## ATTORNEYS (IF KNOWN)

Gallo Vitucci Klar LLP (212) 683-7100  
90 Broad Street, 3rd Floor, New York, NY 10004CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

The cause of action asserted in this action for personal injuries sounds in negligence.

Has this or a similar case been previously filed in SDNY at any time? No? ☒ Yes? ☐ Judge Previously AssignedIf yes, was this case Vol ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

(PLACE AN [x] IN ONE BOX ONLY)

## NATURE OF SUIT

## ACTIONS UNDER STATUTES

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
		<b>PERSONAL INJURY</b>		<b>PERSONAL INJURY</b>					
		[ ] 310 AIRPLANE		[ ] 362 PERSONAL INJURY -		[ ] 610 AGRICULTURE		[ ] 400 STATE	
		[ ] 315 AIRPLANE PRODUCT		MED MALPRACTICE		[ ] 620 OTHER FOOD &		REAPPORTIONMENT	
		[ ] 320 LIABILITY		[ ] 365 PERSONAL INJURY		DRUG		[ ] 410 ANTITRUST	
		[ ] 320 ASSAULT, LIBEL &		PRODUCT LIABILITY		[ ] 625 DRUG RELATED		[ ] 430 BANKS & BANKING	
		SLANDER		[ ] 368 ASBESTOS PERSONAL		SEIZURE OF		[ ] 450 COMMERCE	
		[ ] 330 FEDERAL		INJURY PRODUCT		PROPERTY		[ ] 460 DEPORTATION	
		EMPLOYERS'		LIABILITY		21 USC 881		[ ] 470 RACKETEER INFLU-	
		LIABILITY				[ ] 630 LIQUOR LAWS		ENCED & CORRUPT	
		[ ] 340 MARINE		<b>PERSONAL PROPERTY</b>		[ ] 640 RR & TRUCK		ORGANIZATION ACT	
		[ ] 345 MARINE PRODUCT				[ ] 650 AIRLINE REGS		(RICO)	
		LIABILITY		[ ] 370 OTHER FRAUD		[ ] 660 OCCUPATIONAL		[ ] 480 CONSUMER CREDIT	
		[ ] 350 MOTOR VEHICLE		[ ] 371 TRUTH IN LENDING		SAFETY/HEALTH		[ ] 490 CABLE/SATELLITE TV	
		[ ] 355 MOTOR VEHICLE		[ ] 380 OTHER PERSONAL		[ ] 690 OTHER		[ ] 810 SELECTIVE SERVICE	
		PRODUCT LIABILITY		PROPERTY DAMAGE				[ ] 850 SECURITIES/	
		[ ] 360 OTHER PERSONAL		[ ] 385 PROPERTY DAMAGE				COMMODITIES/	
		INJURY		PRODUCT LIABILITY				EXCHANGE	
						<b>LABOR</b>		[ ] 861 HIA (1395f)	
						[ ] 710 FAIR LABOR		[ ] 862 BLACK LUNG (923)	
						STANDARDS ACT		[ ] 863 DIWC/DIWW (405(g))	
						[ ] 720 LABOR/MGMT		[ ] 864 SSID TITLE XVI	
						RELATIONS		[ ] 865 RSI (405(g))	
						[ ] 730 LABOR/MGMT		[ ] 875 CUSTOMER	
						REPORTING &		CHALLENGE	
						DISCLOSURE ACT		12 USC 3410	
						[ ] 740 RAILWAY LABOR ACT		[ ] 890 OTHER STATUTORY	
						[ ] 790 OTHER LABOR		ACTIONS	
						LITIGATION		[ ] 891 AGRICULTURAL ACTS	
						[ ] 791 EMPL RET INC		[ ] 892 ECONOMIC	
						SECURITY ACT		STABILIZATION ACT	
								[ ] 893 ENVIRONMENTAL	
								MATTERS	
								[ ] 894 ENERGY	
								ALLOCATION ACT	
								[ ] 895 FREEDOM OF	
								INFORMATION ACT	
								[ ] 900 APPEAL OF FEE	
								DETERMINATION	
								UNDER EQUAL ACCESS	
								TO JUSTICE	
								[ ] 950 CONSTITUTIONALITY	
								OF STATE STATUTES	

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?  
IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☐ 1 Original Proceeding ☒ 2a. Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court AND at least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE  
CITIZENSHIP BELOW.  
(28 USC 1322, 1441)

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☐ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☒ 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [ ] 1 [ ] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [ ] 3 [ ] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [ ] 5 [X] 5
CITIZEN OF ANOTHER STATE	[X] 2 [ ] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ] 4 [ ] 4	FOREIGN NATION	[ ] 6 [ ] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Charlotte Thomas  
8304 Hills Road  
North Little Rock, AK 72117

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Coach USA Tour Inc. - does not exist

Twin America, LLC  
1430 Broadway  
New York, NY 10018

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN  
(DO NOT check either box if this a PRISONER PETITION.)

DATE 4/11/12

SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[ ] NO  
[X] YES (DATE ADMITTED Mo. 12 Yr. 2001)  
Attorney Bar Code #8757

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

Ruby J. Krajick, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

12 CIV 2854

CHARLOTTE THOMAS,

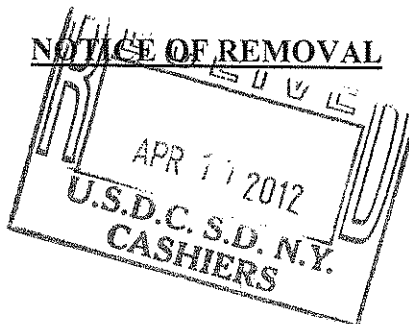
Plaintiff,

-against-

COACH USA TOUR INC. and TWIN AMERICA, LLC,

Defendants.

CIVIL ACTION NO.:



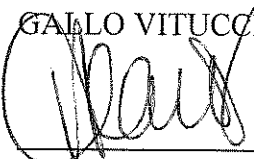
PLEASE TAKE NOTICE that Defendants COACH USA TOUR INC. and TWIN AMERICA, LLC hereby remove the civil action entitled *Charlotte Thomas v. Coach USA Tour Inc. and Twin America, LLC*, Index Number 150225/2012, from the Supreme Court of the State of New York, County of New York, where it is now pending to the United States District Court of the Southern District of New York pursuant to 28 U.S.C. §§ 1332 and 1441.

Dated: New York, New York  
April 11, 2012

Respectfully submitted,

GALLO VITUCCI KLAR LLP

By:

  
HEATHER C. RAGONE, ESQ. (8757)  
*Counsel for Defendants*  
90 Broad Street, 3<sup>rd</sup> Floor  
New York, New York 10004  
(212) 683-7100  
File No.: CHC-2012-7

TO: CRAIG CARSON, ESQ.  
*Attorneys for Plaintiff*  
95 Wyndshire Lane  
Rochester, New York 14626

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

CHARLOTTE THOMAS,

Plaintiff,

-against-

COACH USA TOUR INC. and TWIN AMERICA, LLC,

Defendants.

---

CIVIL ACTION NO.:

**PETITION FOR  
REMOVAL**

TO: JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

The Petition of Heather C. Ragone, Esq. respectfully shows as follows:

1. That the undersigned are counsel for Defendants Coach USA Tour Inc. and Twin America, LLC and hereby remove the civil action entitled *Charlotte Thomas v. Coach USA Tour Inc. and Twin America, LLC*, Index Number 150225/2012, which is currently pending in the Supreme Court of the State of New York, County of New York to the United States District Court of the Southern District of New York pursuant to 28 U.S.C. §§ 1332 and 1441.

2. That upon information and belief, service of the Summons and Complaint was made upon Defendant Twin America, LLC on or about April 4, 2012.

3. That the cause of action as set forth in the Complaint seeks monetary damages for personal injuries in an amount exceeding seventy five thousand dollars (\$75,000).

4. That in the Complaint, Plaintiff seeks to recover damages for the personal injuries she allegedly sustained as a result of the alleged negligence of the Defendants in their ownership, operation, management, and control of a certain sightseeing bus that was involved in an accident on July 14, 2009 at an unspecified location in the State and Country of New York, at which time and location Plaintiff was a passenger on said bus.

5. That Plaintiff is a natural person residing in the State of Arkansas, County of Pulaski.

6. That Defendant Twin America, LLC's principal place of business is located in New York, New York.

7. That Defendant "Coach USA Tour Inc." does not exist.

8. That this action may be removed to this Court by Defendant Twin America, LLC pursuant to 28 U.S.C. §§ 1332 and 1441 since Plaintiff's action is a civil action, wherein the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs, and there exists complete diversity of citizenship amongst the Defendants and Plaintiff.

9. Defendant Twin America, LLC attaches hereto copies of all process and pleadings thus far served herein; *to wit*, the Summons and Complaint.

**WHEREFORE**, Defendant Twin America, LLC prays that the action now pending against them in the Supreme Court of the State of New York, County of New York be removed therefrom to this Court.

Dated: New York, New York  
April 11, 2012

Respectfully submitted,

GALLO VITUCCI KLAR LLP

By:

  
HEATHER C. RAGONE, ESQ. (8757)

*Counsel for Defendants*

90 Broad Street, 3<sup>rd</sup> Floor

New York, New York 10004

(212) 683-7100

File No.: CHC-2012-7

TO: CRAIG CARSON, ESQ.  
*Attorneys for Plaintiff*  
95 Wyndshire Lane  
Rochester, New York 14626

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CHARLOTTE THOMAS,

Plaintiff,

-against-

COACH USA TOUR INC. and TWIN AMERICA, LLC,

Defendants.

CIVIL ACTION NO.:

**AFFIDAVIT**

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF NEW YORK    )

HEATHER C. RAGONE, being duly sworn, deposes and says:

1. I am a member of the law firm of GALLO VITUCCI KLAR, L.L.P., attorneys for Defendants COACH USA TOUR INC. and TWIN AMERICA, LLC.

2. Defendants COACH USA TOUR INC. and TWIN AMERICA, LLC petition this Court for removal and leave will be sought to amend the caption in this action to read as follows:

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CHARLOTTE THOMAS,

Plaintiff,

-against-

COACH USA TOUR INC. and TWIN AMERICA, LLC,

Defendants.

Sworn to before me this  
11<sup>th</sup> day of April, 2012

Notary Public

Yvette Pagan  
Commissioner of Deeds, City of New York  
No. 1-6962  
Cert. Filed in New York County  
Comm Expires July 1, 2013

  
Heather C. Ragone (8757)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CHARLOTTE THOMAS,

Plaintiff,

-against-

COACH USA TOUR INC. and TWIN AMERICA, LLC,

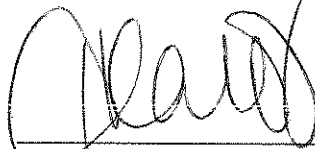
Defendants.

CIVIL ACTION NO.:

**VERIFICATION**

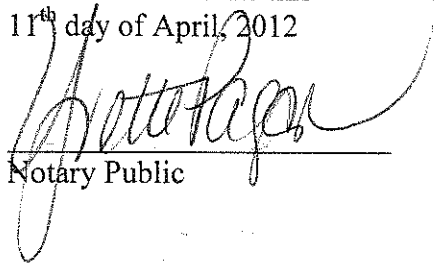
HEATHER C. RAGONE, being duly sworn according to law, deposes and says:

That she is counsel for Defendants COACH USA TOUR INC. and TWIN AMERICA, LLC, the within named Defendants/Petitioners; that she has read the foregoing Petition for Removal; and that the statements contained therein are true in substance and to my knowledge.



HEATHER C. RAGONE (8757)

Sworn to before me this  
11<sup>th</sup> day of April, 2012



Notary Public

Yvette Pagan  
Commissioner of Deeds, City of New York  
No. 1-6962  
Cert. Filed in New York County  
Comm Expires July 1, 2013

IN THE SUPREME COURT OF NEW YORK

CHARLOTTE THOMAS,  
PLAINTIFF

VS

COACH USA TOUR INC. and  
TWIN AMERICA, LLC.,  
DEFENDANTS

Index No 150225/2012

SUMMONS

Plaintiff's residence address:  
Pulaski County, Arkansas

The Basis for venue designated is the  
location of the tort.

To the above named defendant: TWIN AMERICA, LLC, 49 WEST 45<sup>TH</sup> STREET-5<sup>TH</sup> FLOOR,  
NEW YORK, NY, 10036

YOU ARE HEREBY SUMMONED to appear in the Supreme Court of New York, County of  
New York, at the office of the Clerk of the said Court at \_\_\_\_\_ in the County of New  
York, within the time provided by law as noted below and to file your answer to the endorsed  
summons and annexed complaint with the Clerk; upon your failure to answer, judgment will be  
taken against you with interest thereon from the \_\_\_\_ day of \_\_\_\_, 20 \_\_\_\_, together with the  
costs of this action.

Dated, the \_\_ day of February, 2012.

Clerk

Or

Craig Carson  
NY Bar No. 4834891  
Attorney at Law  
95 Wyndshire Lane  
Rochester, NY 14626

THE SUPREME COURT OF NEW YORK  
County of New York

CHARLOTTE THOMAS,	)	
PLAINTIFF	)	
	)	
vs	)	Complaint
	)	Index No <u>150 225/2017</u>
	)	
COACH USA TOUR INC. and	)	Name of Assigned
TWIN AMERICA, LLC.,	)	Judge _____
DEFENDANTS	)	
	)	

COMPLAINT

1. Plaintiff at all times pertinent to this cause of action was a resident and citizen of Pulaski County, Arkansas.
2. Plaintiff's injuries are in excess of \$25,000. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction.
3. Defendant Coach USA Tour Inc., is the holding company for various American transportation service providers including Defendant Twin America, LLC.
4. At all relevant times, Defendants owned, maintained and operated tour buses engaged in the transportation of passengers for hire over various streets and avenues in the City of New York, New York.
5. On July 14, 2009, while plaintiff was a passenger for hire on one of Defendants' sightseeing buses in New York City, without any warning, the bus came to a sudden, abrupt and violent stop, causing plaintiff to sustain the serious injuries described, *infra*.
6. Defendants' agent's operation of the tour bus in a negligent manner caused him to suddenly slam the bus' brakes so as to throw passengers from their seats in a violent manner. The

driver's actions directly and proximately caused many of the passengers, including Plaintiff, to be suddenly jerked around and upon each other and to collide with various interior parts of the tour bus. Due to the force occasioned by Defendants' driver's careless and negligent actions, Plaintiff was unable to avoid or prevent herself from being thrown full force into the metal passenger seat in front of her and or to avoid being struck by the metal bar on its back. As a consequence of that action and its force Plaintiff sustained injury to her back, breasts and rib cage.

7. Defendants' negligence consisted of the following: (a) operating the bus in a careless manner; (b) failing to keep a proper lookout; (c) failing to have the bus under proper and reasonable control; (d) failing to see to it that bus passengers were not thrown in and around the bus; (e) failing properly to apply the brakes; (f) operating the bus at a higher rate of speed than care and caution would permit under the circumstances and conditions existing at the time; (g) causing the bus to come to an abrupt and short stop; (h) failing to provide a safe haven for passengers in the bus; (i) failing to maintain the bus in proper repair; (j) failing to take proper care in the operation, maintenance and control of the bus; (k) failing to observe plaintiff and to give her proper warning of the impending stop; (l) permitting the bus to become overcrowded; and (m) being otherwise negligent.

8. As a result of the accident, Plaintiff twisted her lower back and other parts of her body causing her to suffer permanent injuries which include but are not limited to damage to the mid and lower lung zones and to her ribs. Plaintiff's injuries caused her great pain, suffering and mental anguish which persist. The injuries have also caused Plaintiff to incur substantial medical expenses.

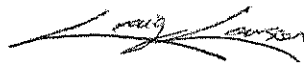
9. The subject accident and plaintiff's resulting injuries were proximately caused by the negligence of Defendants, its agents, servants, and/or employees, in the operation of the bus tour on which Plaintiff was a paying passenger.

10. Plaintiff has sustained bodily injury, incurred substantial medical expense, and lost substantial income as a direct and proximate result of Defendants' afore described negligent conduct. She is entitled to compensatory damages from Defendants for such injuries in an amount which exceeds \$100,000.

**WHEREFORE**, Plaintiff prays that this matter be set for trial before a jury and that after such trial she be awarded damages for physical injury, pain and suffering, mental anguish, reimbursement of medical expenses (past, present and future), and reimbursement for loss of income.

Plaintiff further prays that she be awarded her costs, and for such other relief to which she may be entitled as provided by law.

Respectfully Submitted,



Craig Carson  
NY Bar No. 4834891  
Attorney at Law  
95 Wyndshire Lane  
Rochester, NY 14626

Dated: February 7, 2012

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

CHARLOTTE THOMAS,

Plaintiff,

-against-

COACH USA TOUR INC. and TWIN AMERICA, LLC,

Defendants.

---

NOTICE OF REMOVAL AND PETITION FOR REMOVAL

---

**GALLO VITUCCI KLAR LLP**

*Attorneys for Defendant(s)*

90 Broad Street, 3<sup>rd</sup> Floor

New York, New York 10004

(212) 683-7100

Fax (212) 683-5555

---

**PLEASE TAKE NOTICE:**

**☐ NOTICE OF ENTRY**

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on

20

**☐ NOTICE OF SETTLEMENT**

that an order of which the within is a true copy will be presented  
for  
settlement to the HON. one of the judges  
of the within named court, at  
on 20 at M..

Dated:

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

CHARLOTTE THOMAS,

Plaintiff,

-against-

COACH USA TOUR INC. and TWIN AMERICA, LLC,

Defendants.

---

CIVIL ACTION NO.:  
12 CIV 2856

**CORRECTED  
RULE 7.1 STATEMENT**

Twin America LLC is a privately owned corporation.

Coach USA Tour Inc. does not exist.

Dated: New York, New York  
April 11, 2012

By:

GALLO VITUCCI KLAR LLP



---

HEATHER C. RAGONE, ESQ. (8757)

*Counsel for Defendants*

90 Broad Street, 3<sup>rd</sup> Floor

New York, New York 10004

(212) 683-7100

File No.: CHC-2012-7

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

CHARLOTTE THOMAS,

Plaintiff,

-against-

COACH USA TOUR INC. and TWIN AMERICA, LLC,

Defendants.

---

**CORRECTED RULE 7.1 STATEMENT**

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**GALLO VITUCCI KLAR LLP**  
*Attorneys for Defendant(s)*  
90 Broad Street, 3<sup>rd</sup> Floor  
New York, New York 10004  
(212) 683-7100  
Fax (212) 683-5555

---

**PLEASE TAKE NOTICE:**

**[ ] NOTICE OF ENTRY**

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on

20

**[ ] NOTICE OF SETTLEMENT**

that an order of which the within is a true copy will be presented  
for  
settlement to the HON. one of the judges  
of the within named court, at  
on 20 at M..

Dated:

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF NEW YORK    )

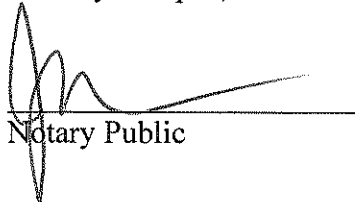
The undersigned being duly sworn, deposes and says that she is not a party to this action, is over the age of 18 years and resides in the County of New York. That on the 13<sup>th</sup> day of April, 2012, she served the within **NOTICE OF REMOVAL, PETITION OF REMOVAL AND CORRECTED RULE 7.1 STATEMENT** upon:

CRAIG CARSON, ESQ.  
*Attorneys for Plaintiff*  
95 Wyndshire Lane  
Rochester, New York 14626

by depositing a true copy of same securely enclosed in a post paid wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

  
Yvette Pagan

Sworn to before me this  
13<sup>th</sup> day of April, 2012

  
\_\_\_\_\_  
Notary Public

Jessica Roman  
Commissioner of Deeds, City of New York  
No. 3-7376 Filed NY County Exp 6/1/12